

TENNESSEE STATE BOARD OF EQUALIZATION
BEFORE THE ADMINISTRATIVE JUDGE

IN RE: Russell and Barbara Pate)
 Dist. 20, Map 120, Control Map 120, Parcel 10.02,) Bedford County
 S.I. 000)
 Farm Property)
 Tax Year 2005)

INITIAL DECISION AND ORDER

Statement of the Case

The Bedford County Assessor of Property ("Assessor") valued the subject property for tax purposes as follows:

<u>Land Use Value</u> ¹	<u>Improvement Value</u>	<u>Total Value</u>	<u>Assessment</u>
\$37,000	\$165,700	\$202,700	\$50,675

An Appeal has been filed on behalf of the property owner with the State Board of Equalization on November 17, 2006.

This matter was reviewed by the undersigned administrative law judge pursuant to Tennessee Code Annotated (T.C.A.) §§ 67-5-1412, 67-5-1501 and 67-5-1505. This hearing was conducted on September 6th, 2007, at the Bedford County Assessor's Office in Shelbyville, Tennessee. Present at the hearing were Barbara Pate, the taxpayer, and her attorney, Ms. Brenda Bramlett. Also in attendance was Ronda Helton-Clanton, Assessor of Property for Bedford County.

Findings of Fact and Conclusions of Law

The subject property consists of a farm comprised of 21.4 acres located at 272 Charlie Russell Road in Shelbyville, Tennessee. The issue involves rollback taxes from a transfer of the property under Greenbelt designation.

However, the initial issue is whether or not the State Board of Equalization has the jurisdiction to hear the taxpayer's appeal. The law in Tennessee generally requires a taxpayer to appeal an assessment to the County Board of Equalization prior to appealing to the State Board of Equalization. T.C.A. §§ 67-5-1401 & 67-5-1412 (b). A direct appeal to the State Board of Equalization is only permitted if the assessor does not timely notify the taxpayer of a change of assessment prior to the meeting of the County Board. T.C.A. §§ 67-5-508(b) (2); 67-5-1412 (e). Nevertheless, the legislature has also provided that:

The taxpayer shall have a right to a hearing and determination to show reasonable cause for the taxpayer's failure to file an appeal as provided in this section and, upon demonstrating such **reasonable cause**, the [state] board shall accept such appeal from the taxpayer up to March 1st of the year

¹ Land Market Value \$121,300 with total Market Appraisal at \$287,000

subsequent to the year in which the assessment is made
(*emphasis added*).

In analyzing and reviewing T.C.A. § 67-5-1412 (e), the Assessment Appeals Commission, in interpreting this section, has held that:

The deadlines and requirements for appeal are clearly set out in the law, and owners of property are charged with knowledge of them. It was not the intent of 'reasonable cause' provisions to waive these requirements except where the failure to meet them is **due to illness or other circumstances beyond the taxpayer's control**. (*Emphasis added*), *Associated Pipeline Contractors Inc.*, (Williamson County Tax Year 1992, Assessment Appeals Commission, Aug. 11, 1994). See also *John Orovets*, (Cheatham County, Tax Year 1991, Assessment Appeals Commission, Dec. 3, 1993).

Thus, for the State Board of Equalization to have jurisdiction in this appeal, the taxpayer must show that circumstances beyond his control prevented him from appealing to the Bedford County Board of Equalization. It is the taxpayer's burden to prove that they are entitled to the requested relief.

In this case, the taxpayer, Mrs. Pate, did not appeal to the Bedford County Board of Equalization. As clear as can be determined and demonstrated by Attorney Bramlett, Mrs. Pate's husband was hospitalized with severe heart problems shortly after the property was acquired in July of 2005. As was standard practice in Bedford County² the closing agent, John T. Bobo, had mailed the Greenbelt application to the taxpayer without the appropriate instructions so it is probable that the papers were sent to the Assessor's Office without the proper filing fee³ and would not have been processed. Mrs. Pate indicated that if anyone from the Assessor's Office had attempted to contact her or her husband they would not have been able to talk with them because they were away from the home at the hospitals, first in Jackson, Tennessee then in Nashville, Tennessee. Mrs. Pate is not sure if or when she would have received any other notice regarding the requirement to re-apply for the Greenbelt designation as Mr. Bobo had included the notice in his closing information to them (a copy is included in the taxpayers appeal information).⁴ Mrs. Pate testified that she was busy and upset during this time as they were unsure of Mr. Pate's progress and prognosis. These events demonstrate in the opinion of the Administrative Judge **circumstance(s) beyond the taxpayer's control**.

The Administrative Judge finds that reasonable cause does exist justifying the failure to first appeal to the Bedford County Board of Equalization and thus the State Board

² Mrs. Clanton has indicated that the practice has changed as the closing agents often made mistakes that have led to problems such as this taxpayer has experienced so that now only the Property Assessor's Office handles the application process for the Greenbelt designation.

³ Part of the Taxpayers exhibits show that on July 14, 2005, Mr. Pate completed the 'Application for Greenbelt Assessment-Agricultural' which Mrs. Pate believes was sent in to the Assessor although she can not be sure based on her memory of the events during the time of her husband's illness.

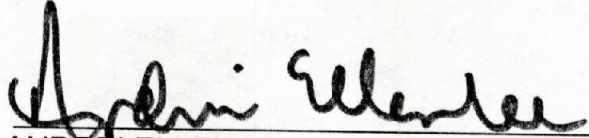
⁴ Mrs. Pate has subsequently correctly completed the Greenbelt application and the property is once designated as Greenbelt property.

of Equalization does have jurisdiction to hear this appeal. Attorney Bramlett stated that there is no dispute as to the value of the land, only that it should have the Greenbelt designation.

Order

It is so ORDERED. This matter will be docketed at a later time for a further hearing on outstanding issues.

ENTERED this 27th day of September, 2007.



ANDREI ELLEN LEE
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Brenda Bramlett, Esq.
Ronda Helton-Clanton, Assessor of Property